



Senate

General Assembly

File No. 562

February Session, 2014

Substitute Senate Bill No. 80

Senate, April 16, 2014

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROHIBITING INTERNET SWEEPSTAKES CAFES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-295 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2014*):

3 As used in sections 42-295 to 42-300, inclusive, and section 2 of this
4 act:

5 (1) "Advertise" means the use of the media, mail, computer,
6 telephone or personal contact to offer: (A) [to] To a specifically named
7 person the opportunity to participate in a sweepstakes and such offer
8 represents that (i) such person has been awarded a prize, (ii) such
9 person will be awarded a prize, or (iii) there is a strong likelihood, as
10 determined pursuant to regulations adopted by the Commissioner of
11 Consumer Protection in accordance with chapter 54, that such person
12 will be awarded a prize; or (B) a game of skill and such offer represents
13 that (i) a participant will be awarded a prize, or (ii) there is a strong
14 likelihood, as determined pursuant to such regulations, that a

15 participant will be awarded a prize;

16 (2) "Consumer product" means any article used primarily for
17 personal, family or household purposes;

18 (3) "Person" means an individual, corporation, association,
19 partnership or any other entity;

20 (4) "Prize" includes, but is not limited to, an award, gift certificate,
21 travel coupon or anything else of value regardless of whether there are
22 any conditions or restrictions attached to the receipt of the prize that is
23 separate and distinct from the goods, services or property promoted
24 by the sponsor and that is offered or awarded to a participant in a
25 sweepstakes or a promotional drawing;

26 (5) "Promoter" means a person conducting a sweepstakes or a
27 promotional drawing on behalf of a sponsor;

28 (6) "Simulated check" means a document which looks similar to a
29 check but is not currency or a check, draft, note, bond or other
30 negotiable instrument;

31 (7) "Sponsor" means a person on whose behalf the sweepstakes or
32 promotional drawing is being conducted to promote or advertise
33 goods, [or] services or property of that person;

34 (8) "Sweepstakes" means a legal contest, competition, scheme, plan
35 or game that (A) is conducted by a sponsor or promoter for advertising
36 or promotional purposes related to the sale of goods, services or
37 property where a prize is distributed by lot or by chance, and (B) does
38 not require a permit or license to operate in the state;

39 (9) "Verifiable retail value" means: (A) A price at which a substantial
40 number of the prizes have sold at retail in the local market no earlier
41 than one year prior to the advertisement of the sweepstakes by a
42 person other than the promoter or sponsor; (B) if the prize is not
43 available for retail sale in the local market, the retail value of an item
44 substantially similar to the prize in quality, quantity, grade and utility;

45 or (C) if the value cannot be established under subparagraph (A) or (B)
46 of this subdivision, no more than three times the cost of the prize to the
47 promoter or sponsor; [and]

48 (10) "800 number" means a prefixed telephone number for which no
49 charge is assessed; [.]

50 (11) "Simulated gambling device" means any mechanically,
51 electrically or electronically operated machine, network, system or
52 device that is intended to be used by an entrant to a sweepstakes or a
53 promotional drawing and is capable of displaying a simulated
54 gambling display on a screen or mechanism; and

55 (12) "Simulated gambling display" means visual or aural
56 information that takes the form of actual or simulated gambling or
57 gaming play, including, but not limited to, a video poker game or any
58 other kind of video playing card game, a video slot machine, a video
59 game based on or involving the random or chance matching of
60 different pictures, words, numbers or symbols, a video bingo game, a
61 video craps game, a video keno game or a video lotto game.

62 Sec. 2. (NEW) (*Effective July 1, 2014*) (a) No person shall conduct or
63 promote a sweepstakes or a promotional drawing authorized by the
64 provisions of section 53-278g of the general statutes, as amended by
65 this act, that (1) is not related to the bona fide sale of goods, services or
66 property, or (2) uses a simulated gambling device.

67 (b) Any person who violates the provisions of this section shall be
68 subject to the penalty for professional gambling, as provided in
69 subsection (b) of section 53-278b of the general statutes.

70 (c) Any simulated gambling device used in a sweepstakes or a
71 promotional drawing shall be deemed a common nuisance and be
72 subject to seizure, as provided in section 53-278c of the general
73 statutes.

74 (d) Any premises used for a sweepstakes or a promotional drawing
75 in violation of the provisions of this section shall be deemed a common

76 nuisance and shall be subject to the provisions in section 53-278e of the
77 general statutes.

78 Sec. 3. Subsection (a) of section 53-278g of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective July*
80 *1, 2014*):

81 (a) Nothing in sections 53-278a to 53-278g, inclusive, as amended by
82 this act, shall be construed to prohibit the publication of an
83 advertisement of, or the operation of, or participation in, a state lottery,
84 pari-mutuel betting at race tracks licensed by the state, off-track betting
85 conducted by the state or a licensee authorized to operate the off-track
86 betting system, [or] a promotional drawing for a prize or prizes,
87 conducted for advertising purposes by any person, firm or corporation
88 other than a retail grocer or retail grocery chain, wherein members of
89 the general public may participate without making any purchase or
90 otherwise paying or risking credit, money, or any other tangible thing
91 of value or a sweepstakes conducted pursuant to sections 42-295 to 42-
92 300, inclusive, as amended by this act, and section 2 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	42-295
Sec. 2	<i>July 1, 2014</i>	New section
Sec. 3	<i>July 1, 2014</i>	53-278g(a)

Statement of Legislative Commissioners:

In sections 1(8) and 2(a), "a product, service or property" was changed to "goods, services or property" for statutory consistency.

PS *Joint Favorable Subst.-LCO C/R*

JUD

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 10,000	Less than 10,000

Municipal Impact: None

Explanation

The bill creates a new violation of sweepstakes or promotional drawing and results in a potential minimal revenue gain of less than \$10,000 from fines. This new violation is punishable the same as professional gambling, a Class A misdemeanor. In FY 13 there was one offense with a fine of \$100.

The Department of Consumer Protection currently acts upon violations concerning internet sweepstakes cafes and therefore there is no fiscal impact to the agency.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 80*****AN ACT PROHIBITING INTERNET SWEEPSTAKES CAFES.*****SUMMARY:**

This bill makes it a class A misdemeanor to conduct or promote a sweepstakes or promotional drawing that (1) is not related to the bona fide sale of goods, services, or property or (2) uses a simulated gambling device. Such operations are often referred to as "Internet sweepstakes cafes" (see BACKGROUND). A class A misdemeanor is punishable by up to one year's imprisonment, up to a \$2,000 fine, or both.

Under the bill, a "simulated gambling device" is any mechanically, electrically, or electronically operated machine, network, system, or device that is (1) intended to be used by an entrant to a sweepstakes or a promotional drawing and (2) capable of displaying a simulated gambling display on a screen or mechanism. A "simulated gambling display" is visual or aural information that takes the form of actual or simulated gambling or gaming play, including a video game version of (1) poker or other playing card game; (2) a slot machine or other games based on or involving the random matching of different pictures, words, numbers, or symbols; (3) bingo; (4) craps; (5) keno; or (6) lotto.

The bill makes any simulated gambling device used in, or premises used for, an illegal sweepstakes or a promotional drawing a "common nuisance." This designation allows municipalities to seek injunctive relief requiring the property's owner to act against the people causing the nuisance. The bill allows a peace officer to seize such a device upon detection and subjects the people affiliated with the premises to the penalties under the existing gambling premises law (see BACKGROUND).

The bill also (1) modifies the definitions of sweepstakes, promoters, and sponsors to, among other things, include promotional drawings and (2) makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2014

SWEEPSTAKES AND PROMOTIONAL DRAWINGS

Under current law, “sweepstakes” are legal contests or games where a prize is distributed by lot or chance. The bill (1) expands sweepstakes to also include competitions, schemes, or plans and (2) requires sweepstakes to be conducted by a sponsor or promoter only for advertising or promotional purposes related to the sale of goods, services, or property. By law and unchanged by the bill, a person does not need a permit or license to operate a sweepstakes within the state.

The bill also makes conforming changes to the definitions of “promoter,” “sponsor,” and “prize” to include promotional drawings and requires that they promote and advertise property.

BACKGROUND

Internet Sweepstakes Cafes

Internet sweepstakes cafes are storefronts that sell products (e.g., phone cards or Internet time) that provide entries into a sweepstakes game that may yield cash prizes. After customers buy the product, they are given a specified amount of entries in the sweepstakes. Customers can determine if they won all at once or by playing a slot-like program. If they have a positive balance, they can redeem the entries for cash.

Gambling Premises Penalties

If a premises is deemed a gambling premises, any associated license, permit, or certificate is voided. If the owner, lessee, agent, employee, operator, or occupant knowingly maintains, aids, or permits the gambling premises, he or she is guilty of a class A misdemeanor. If he or she does so with any (1) locked, barricaded, or camouflaged place, (2) electrical or mechanical alarm or warning system, or (3) lookout, he

or she is guilty of a class D felony, punishable by up to five years imprisonment, up to a \$5,000 fine, or both (CGS § 53-278e).

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Change of Reference

Yea 24 Nay 0 (03/11/2014)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/02/2014)